

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AWILDA GOMEZ,

No. 07 Civ.9296 (CLB)

Plaintiff,

ECF Case

-against-

VILLAGE OF SLEEPY HOLLOW, DETECTIVE  
JOSE QUINOY, IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITY, POLICE OFFICER  
ELDRYK EBEL IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITY, POLICE OFFICER  
MIKE GASKER IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITY, LIEUTENANT BARRY  
CAMPBELL IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITY, LIEUTENANT GABRIEL  
HAYES IN HIS INDIVIDUAL AND OFFICIAL  
CAPACITY, SERGEANT WOOD IN HIS  
INDIVIDUAL AND OFFICE CAPACITY, CHIEF  
OF POLICE JIMMY WARREN IN HIS  
INDIVIDUAL AND OFFICIAL CAPACITY, AND  
POLICE OFFICERS JOHN DOES 1-4,

AFFIDAVIT

Defendants.

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STATE OF NEW YORK       )  
COUNTY OF WESTCHESTER) ss.:

FRANCES DAPICE MARINELLI, being duly sworn, deposes  
and says:

I am an attorney duly licensed to practice law in the  
State of New York, a member of the firm of JOSEPH A. MARIA,  
P.C., admitted to the Southern District since November 1983  
and I am the attorney for the Plaintiff, AWILDA GOMEZ in  
this action.

I make this Affidavit in Opposition to Defendants' Motion to Dismiss Plaintiff's Complaint on the ground of qualified immunity.

Attached hereto as Exhibit "1" is a true and accurate copy of Plaintiff's Verified Complaint.

Attached hereto as Exhibit "2" is a true and accurate copy of Defendants' Answer.

Attached hereto as Exhibit "3" is a true and accurate copy of the Deposition Transcript of Awilda Gomez taken on February 26, 2008.

Attached hereto as Exhibit "4" is a true and accurate copy of the 50-H Transcript of Awilda Gomez taken on March 30, 2007.

Attached hereto as Exhibit "5" is a true and accurate copy of Phelps Memorial Hospital Records.

Attached hereto as Exhibit "6" is a true and accurate copy of the Affidavit of Awilda Gomez, dated June 25, 2008.

Attached hereto as Exhibit "7" is a true and accurate copy of Statement of Admission of Awilda Gomez dated October 18, 2006.

Attached hereto as Exhibit "8" is a true and accurate copy of Investigation Notes of Jose Quinoy, date unknown.

Attached hereto as Exhibit "9" is a true and accurate copy of Miranda Warning Spanish of Awilda Gomez dated October 18, 2006.

Attached hereto as Exhibit "10" is a true and accurate copy of North Tarrytown Police Department Arrest Identification and Booking Sheet.

Attached hereto as Exhibit "11" is a true and accurate copy of additional Fingerprint Response.

Attached hereto as Exhibit "12" is a true and accurate copy of Witness Statement of Eudalia Guzman dated December 8, 2006 and Debralyn Press dated November 3, 2006.

Attached hereto as Exhibit "13" is a true and accurate copy of Memo from Lt. Campbell to Chief Jimmy Warren dated January 5, 2007 and his written notes.

Attached hereto as Exhibit "14" is a true and accurate copy of New York State Incident Report dated October 17, 2006. (2 pg.).

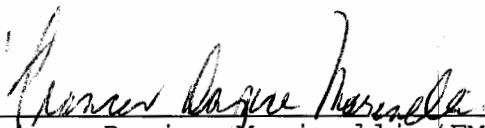
Attached hereto as Exhibit "15" is a true and accurate copy of Case Supplemental Narrative Report of P.O. Gasko dated October 24, 2006.

Attached hereto as Exhibit "16" is a true and accurate copy of Narrative Reports of Defendants Hayes and Ebel.


Attached hereto as Exhibit "17" is a true and accurate copy of Journal News newspaper articles dated December 18, 2007 and December 21, 2007.

Attached hereto as Exhibit "18" is a true and accurate Misdemeanor Info dated December 12, 2006.

As a matter of law, the individual defendants are not entitled to the defense of qualified immunity and Defendants' Motion must be denied in its entirety.

  
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Frances Dapice Marinelli (FM2152)

Sworn to before me this  
26<sup>th</sup> day of June, 2008.

  
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GREGORY C. FREEMAN  
NOTARY PUBLIC OF THE STATE OF NEW YORK  
QUALIFIED IN WESTCHESTER COUNTY  
NO. 01FR6080775  
COMMISSION EXPIRES: OCTOBER 28, 2010